

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26298 of 2022

Arising Out of PS. Case No.-736 Year-2021 Thana- MAHUA District- Vaishali

Umesh Rai S/o Asharfi Rai @ Asarfi Ray R/o village- Bajitpur, Bhagwalpur
Taraura, P.S.- Mahua, District- Vaishali

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Miss. Kritika Sakshi, Advocate

For the Opposite Party/s : Mr.Madan Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 06-08-2022 Heard learned counsel for the petitioner and learned
APP for the State in Virtual Court Proceeding.

Let the defect(s), if any, as pointed out by the
office, be removed within four weeks.

The petitioner is in custody in connection with Mahua
P.S. Case No. 736 of 2021 under sections 30(a)/32(ii)/34
(ii)/38(ii)/41(i) of Bihar Prohibition and Excise Amendment Act.

The prosecution case, in brief, is that while the
informant along with police team were on patrolling duty, he
received confidential information that at Jamunia Char Pokhri,
at Mohammadpur Panchaya, the petitioner has brought illicit
liquor by truck and are transporting the same with the help of
small vehicles. The informant reached the spot and tried to
apprehend them but they fled away leaving the vehicle. Upon



search, total 3158.370 liters of Indian Made Foreign Liquor was recovered/seized.

Miss. Kritika Sakshi, learned counsel for the petitioner submits that the alleged recovery of the foreign liquor from the truck/pickup van has not been made from his conscious possession and his name has been dragged later on. She further submits that the aforesaid case clearly shows that that nothing has been recovered from the conscious possession of the petitioner. Despite the aforesaid facts as also that he has no criminal antecedent, he is suffering by being in custody since 7.3.2022 (as stated in para-15 of the bail application).

Considering the aforesaid submission of the learned counsel for the petitioner that there has not been any recovery from the conscious possession of the petitioner, he has no criminal antecedent and is in custody since 7.3.2022 as also that charge-sheet stands submitted, this Court is inclined to grant him the privilege of bail.

Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of like amount each to the satisfaction of learned Special Judge Excise (Second)-cum-Additional District and Sessions Judge, Hajipur, Vaishali, in connection with Mahua P.S. Case No. 736



of 2021 subject to the following conditions:

(i) one of the bailors should be the family members of the petitioner, who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reasons will entail his cancellation of bail by the Trial Court itself;

(iii) he shall appear before the concerned police station every fortnight for next six months to mark his presence;

(iv) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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